

Memorandum

To: Planning and Zoning Commission
From: Martin Zimmermann, AICP, Planning Manager
Date: May 15, 2015
Re: proposed amendments to the Subdivision Ordinance (Bryan Code of Ordinances Chapter 110), to add a process for private construction of park improvements in lieu of payment of park development fees

BACKGROUND:

The City of Bryan's Subdivision Ordinance Section 110-60 requires developers of residential properties to provide parkland sufficient to serve the residents who will reside within the new subdivision. The City requires that subdivisions provide land for parks, or money in lieu of land when parkland is not needed within that area, as well as the payment of a parkland development fee to either assist in the development of dedicated land within the subdivision or within existing parkland located within the same district (City Council Single Member District) and whose service area includes the new subdivision.

The City is now seeking to implement a process to accept the construction of park improvements in lieu of payment of the parkland development fee. A copy of the proposed draft ordinance amending Chapter 110, Article III is attached to this memorandum.

The Parks and Recreation Advisory Board is scheduled to consider the proposed ordinance amendment at its meeting on Tuesday, May 19. The recommendations from both the Parks and Recreation Advisory Board and the Planning and Zoning Commission will be forwarded to the City Council which is scheduled to consider the proposal during its regular meeting on May 26, 2015.

ANALYSIS:

Developers have a vested interest in improving the residential property values that they are developing and have an interest in providing adequate, acceptable parks for the use of the residents. The City also can benefit from accepting parkland development and improvements that serve an existing or expected need, if such are constructed in a cost effective manner for both parties and in an effort to help the City to more quickly benefit from the development of a new park.

The proposed ordinance, if approved by the City Council, will allow the City of Bryan to determine which method, fee or construction, will be in the best interest of the City and its current and future residents. The proposed ordinance change will allow the City and developers to consider an alternate path to work together to construct parks in lieu of the payment of parkland development fees, will better guarantee parkland is developed sooner, should increase housing values, and should provide more in amenities and value within that park.

ALTERNATIVES:

Planning and Zoning Commission may recommend that City Council

1. approve the proposed ordinance amendment;
2. not approve the proposed ordinance amendment; or
3. approve the proposed ordinance amendment with modifications.

RECOMMENDATION:

Staff recommends **approving** the proposed ordinance amendment to give the City the flexibility to either collect the fee or have the park built, whichever provides the City the greatest benefit. Staff believes the change will enhance the opportunity to construct parks on a timely basis. The proposed ordinance amendment will help to ensure parks within new subdivisions are constructed in a timely manner, which will enhance the value of the homes and benefit both the City and the developer. All construction methods, materials used and equipment provided will need to be approved by the City to insure that a quality park is built. Generally, a developer can construct a park at less expense than the City. Therefore, the City should receive more value than what normally would occur if the City were to take the fees and then bid for construction of the park.

DRAFT
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 110 “SUBDIVISIONS”, ARTICLE III “DESIGN STANDARDS FOR SUBDIVISIONS WITHIN THE CITY”, OF THE CODE OF ORDINANCES, CITY OF BRYAN, TEXAS BY AMENDING SECTION 110-60 TO ADD A PROCESS FOR PRIVATE CONSTRUCTION OF PARK IMPROVEMENTS IN LIEU OF PAYMENT OF PARK DEVELOPMENT FEES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THE ORDINANCE IS PASSED ARE OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bryan requires that developers of residential property provide parks and parkland sufficient to serve the users of the residences being constructed; and

WHEREAS, the City requires that subdivisions must provide land for parks, or money in lieu of land, in order to provide for parks as well as the payment of a parkland development fee, in proportion to the number of residential lots or units being constructed; and

WHEREAS, the City is able to accept land in lieu of money for dedication of land, and the City Council desires to implement a process to accept construction of park improvements in lieu of payment of the development fee; and

WHEREAS, the City Council finds that developers have a vested interest in improving the value of the property they are developing and therefore have an interest in providing adequate, acceptable parks for the use of the future residents; and

WHEREAS, the City Council finds that the City can benefit from accepting certain park improvements, provided that such improvements are adequate, cost effective, and serve an existing or expected need; and

WHEREAS, the City Council determines that it is in the best interests of the current and future citizens of this City to allow developers to work with the City to construct parks in lieu of the payment of park development fees; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, THAT:

1.

Sec. 110-60. - Parkland dedication requirements.

...

(d) *Park development fee.* In addition to the land dedication, there shall also be a fee set from time-to-time by resolution of the city council sufficient to provide for the development of the land for neighborhood park purposes. If the Director provides written approval and the procedural and substantive requirements of this chapter are met, a developer may construct, or finance the construction of, park improvements in lieu of paying the park development fee.

i) Park development fee. The development fees shall be paid into a fund and those fees shall be tied to the parkland dedication that the subdivider made (by land or fee in lieu of land). For 36 months after official adoption by the council, the parkland development fees shall be as follows:

(1) Single-family: \$358.00 per dwelling unit

(2) Multifamily: \$292.00 per dwelling unit

ii) Construction of improvements. A developer may request permission to construct improvements to a park in lieu of paying the park development fee, provided that the value of the improvements equals or exceeds the park development fee for that development. In addition to other submittals required by this chapter, the developer must provide

a. a park site plan, developed in cooperation with the Director, submitted and approved by the Director after consideration by the Parks and Recreation Advisory Board;

b. detailed plans and specifications for improvements which meet or exceed specifications required by the Director; and

c. if the improvements are to be constructed on land that has already been dedicated to and/or is owned by the City, the developer must post payment and performance bonds for the full amount of the work, on a form acceptable to the City.

If the Director provides written approval of the site plan and the specifications, the developer may begin construction of the park improvements, subject to the same inspection and acceptance requirements as other public infrastructure improvements required under this chapter, except that the letter of acceptance must be from the City Engineer and the Director. As a prerequisite to acceptance, the developer shall require from his or her contractors, material suppliers, and equipment suppliers, and shall themselves furnish the City a written guarantee that all workmanship, equipment, and materials shall be free of defects for a period of one year from the date of acceptance.

2.

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

3.

The Code of the City of Bryan, Texas, as amended, shall remain in full force and effect, save and except as amended by this Ordinance.

4.

Should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared unconstitutional or invalid for any purpose by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this Ordinance are declared to be severable.

5.

It is the intention of the City Council that this Ordinance shall become a part of the Code of the City of Bryan, Texas, and it may be renumbered and codified therein accordingly.

6.

It is hereby found and determined that the meetings at which this ordinance was passed were open to the public, as required by Section 551.001 et seq., Texas Government Code, and that advance public notice of time, place and purpose of said meetings was given.

7.

This Ordinance will be effective from and after its final passage and publication as required by law. The effective date of this Ordinance will be _____.

PRESENTED AND GIVEN first reading the ____ day of _____, 2015, at a _____ meeting of the City Council of the City of Bryan, Texas; and given a second reading, passed and approved on the ____ day of _____, 2015, by a vote of ____ yeses and ____ noes at a _____ meeting of the City Council of the City of Bryan, Texas.

CITY OF BRYAN

ATTEST:

Jason P. Bienski, Mayor

Mary Lynne Stratta, City Secretary

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney